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EXAMINER: Paul Shanoski, Esq.

FROM: David R. Saliwanchik

COMPANY: U.S. Patent Office  
Office of Petitions

DATE: June 22, 2006

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NO. OF PAGES  
(INCLUDING COVER SHEET): 23

## SUBJECT/MESSAGE:

Serial No. 08/816,079  
Attorney Docket No. UF-1598

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1. Certificate of Facsimile Transmittal (1 page);
2. Petition and Fee for Extension of Time (1 page);
3. Transmittal Letter in Response to Decision (1 page);
4. Renewed Petition Under 37 CFR 1.137(b) for Revival of an Application for Patent (3 pages);
5. Statements and Facts in Support of Renewed Petition Under 37 CFR §1.137(b) (4 pages);
6. Petition Under 37 CFR 1.182 (2 pages); and
7. Power of Attorney for Co-Assignee with copy of Assignment (10 pages).

***THIS IS AN OFFICIAL DOCUMENT!***

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : John F. Wironen and Jamie M. Grooms  
Serial No. : 08/816,079  
Filed : March 13, 1997  
For : Bone Paste

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OFFICE OF PETITIONS

Attn: Paul Shanowski, Esq.  
Mail Stop Office of Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMITTAL

I hereby certify that the attached Transmittal Letter, Petition and Fee for Extension of Time, Statement and Facts in Support of Renewed Petition under 37 CFR 1.137(b); Petition under 37 CFR 1.182; Renewed Petition under 37 CFR 1.137(b); Power of Attorney for Co-Assignee (Regeneration Technologies, Inc.) and copy of Assignment are being facsimile transmitted to the United States Patent and Trademark Office to the attention of Paul Shanowski, Esq., in the Office of Petitions on the date shown below.



David R. Saliwanchik, Reg. No. 31,794  
Saliwanchik, Lloyd & Saliwanchik  
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June 22, 2006  
Date

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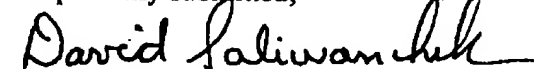
TRANSMITTAL LETTER IN RESPONSE TO  
DECISION ON PETITION UNDER 37 CFR §1.137(B)

Sir:

This Transmittal Letter and accompanying documents are being submitted to the Office of Petitions, to the attention of Paul Shanowski, Esq., in response to a Decision on Petition Under 37 CFR §1.137(b) dated December 22, 2005 that applicants received in response to the Petition to Revive Application that was submitted to the Patent Office, Office of Petitions, on June 14, 2005.

The attached documents include: 1) Petition and Fee for Extension of Time; 2) Statements and Facts in Support of Renewed Petition under 37 CFR §1.137(b); 3) Petition under 37 CFR §1.182; 4) Renewed Petition Under 37 CFR 1.137(b) for Revival of an Application for Patent; and 5) Power of Attorney with attached Assignment.

Respectfully submitted,



David R. Saliwanchik

Patent Attorney

Registration No. 31,794

Phone No.: 352-375-8100

Fax No.: 352-372-5800

Address: P.O. Box 142950

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**STATEMENTS AND FACTS IN SUPPORT OF**  
**RENEWED PETITION UNDER 37 CFR §1.137(b)**

As an initial matter, the University of Florida Research Foundation, Inc. wishes to clarify that its original Petition Under 37 CFR §1.137(b) (the Original Petition) was filed on June 14, 2005, not August 10, 2005 as stated in the Decision.

Specifically, on June 14, 2005, the University of Florida Research Foundation, Inc. submitted its Original Petition and, at the same time, filed a continuation application to satisfy the requirement for responding to the outstanding Action in the case. The Petitioner then diligently reviewed the Patent Office database (PAIR) for evidence that the materials had been received and acknowledged by the Patent Office. Upon reviewing PAIR throughout June and July 2005 the Petitioner found no indication of receipt of the Petition filed June 14, 2005; therefore, the Petitioner made a telephonic inquiry to the Office of Petitions regarding the Petition to Revive. The undersigned was informed that the Petitions Office records did not indicate that they had received the subject petition; therefore, a copy of the original Petition was facsimile transmitted to the Patent Office on August 10, 2005.

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Accordingly, both the Original Petition as well as the continuation application were filed on June 14, 2005.

As noted in the accompanying Renewed Petition, the Decision identifies two requirements of a successful Petition that, according to the Decision, have not been fulfilled by the Original Petition. Relevant facts and statements with regard to each of those requirements are set forth below:

I. 37 CFR §1.137(b)(1)

In the Decision, it is noted that the Original Petition indicated that a continuation application was submitted along with the petition. The Decision goes on to state that "Office records do not reflect the receipt of an application on August 10, 2005 which claims priority to the present application."

As noted above, the Original Petition to Revive was submitted to the U.S. Patent Office on June 14, 2005, along with the continuation application claiming priority to the above-referenced application. The continuation application has been assigned serial number 11/152,548 and given the filing date of June 14, 2005.

Accordingly, the Petitioner respectfully submits that the first requirement (37 CFR §1.137(b)(1)) has been fulfilled.

II. 37 CFR §1.137(b)(3)

The Decision states that the Original Petition failed to include the required statement "that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional."

The Petitioner notes that the first paragraph of the Original Petition states as follows:

As set forth in more detail below, the Petitioner's failure to prosecute the application was unintentional. Furthermore, the entire delay from the date the application went abandoned until the filing of this Petition was wholly unintentional.

Admittedly, this is not a verbatim repetition of the language set forth in the CFR and MPEP. Accordingly, to remove any doubt, for the record, the Petitioner hereby states and affirms that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional.

### III. Explanation of Any Delay

The Decision also asks for an explanation of the delay from obtaining the file history in January 2005 to the filing of the Original Petition to Revive. Initially, the Petitioner reiterates that the Petition was filed in June 2005, not in August 2005.

During the period in question (January to June, 2005), the undersigned was responsible for the review of this file and the preparation of the Petition. During this time period, in addition to teaching at the University of Florida Levin College of Law, the undersigned made two trips to the U.S. Patent Office, two business trips to the West Coast and one business trip out of the country. The undersigned also attended to many pressing matters on his docket. Nevertheless, consistent and steady progress was made on this project. This progress included receipt and initial review of the file history for this case, efforts to determine if there were any related applications that were still pending, obtaining facts concerning the circumstances of the abandonment, conducting legal research regarding the unique issues presented by this case, attempting to locate the inventors, conducting multiple meetings and telephone conferences with the owners of the patent application, drafting the Petition, obtaining an executed Power of Attorney, and receiving final authorization and filing the Petition.

The filing of the Petition was not only without any intentional delay, it was, in fact, a top priority. In view of these circumstances, the Petitioner reiterates that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137 was unintentional.

Furthermore, attached hereto and made an integral part hereof, is a copy of the Original Petition. By virtue of the execution of the Renewed Petition by representatives of both owners, the Petitioner submits that all papers have now been submitted with proper Power of Attorney and in accordance with MPEP §402.10.

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Docket No. UF-1598  
Serial No. 08/816,079

In view of the foregoing, and the Petition to Revive dated June 14, 2005, the Petitioner hereby prays that the subject patent application be revived as having been unintentionally abandoned.

The Commissioner is hereby authorized to charge any additional fees which may be required to Deposit Account No. 19-0065.

Respectfully submitted,



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